

1 KAMALA D. HARRIS
Attorney General of California
2 RICHARD F. WOLFE
Supervising Deputy Attorney General
3 DOUGLAS E. BAXTER
Deputy Attorney General
4 State Bar No. 201351
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2034
7 Fax: (619) 645-2012
E-mail: Douglas.Baxter@doj.ca.gov
8 *Attorneys for Defendant State of California*
(by and through the California Highway
9 *Patrol) and Sergio Flores*

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 JACOB GREGOIRE,
15
16 Plaintiff,
17
18 v.
19 CALIFORNIA HIGHWAY PATROL,
an agency of the State of California;
SERGIO FLORES, and DOES 1 to 20,
20 Defendants.
21

Case No.: 14-cv-01749-GPC (DHB)

**JOINT MOTION TO CONTINUE
DISCOVERY AND MOTION
FILING DEADLINES**

Date: Ex Parte
Time: Ex Parte
Courtroom: Tenth Floor (Annex)
Judge: The Honorable David H.
Bartick

22 Plaintiff Jacob Gregoire and Defendants State of California (California
23 Highway Patrol) and Sergio Flores (all by and through their attorneys of record)
24 jointly move the Court for extensions of the deadlines for completing fact
25 discovery, initial expert witness disclosures, rebuttal expert witness disclosures,
26 expert discovery, and the motions filing deadline based on the following grounds:

27 (1) The parties previously requested and received a continuance of the fact
28 discovery and expert discovery deadlines due to problems in scheduling key

1 witness depositions and the need for the State to resolve issues regarding the
2 manner of producing Officer Flores' personnel files and the need for a protective
3 order.

4 (2) Documents constituting the CHP Critical Incident Investigation Report
5 have now been provided to Plaintiff's counsel, along with several policy manual
6 documents. However, due to a heavily impacted schedule over the last two months
7 (with multiple out of county depositions every week) in preparation for a trial that
8 Defendants' counsel is now starting this week, Defendants' counsel has not yet
9 been able to prepare the proposed stipulation for protective order that the parties
10 hope will resolve the normal discovery dispute that occurs over demands for peace
11 officer personnel files. In connection with this stipulation/protective order,
12 Defendants' counsel also has to prepare what is called a non-relevancy log to
13 identify the documents in Officer Flores' personnel file that contain highly private
14 information (such as health and other insurance benefits, family member names,
15 addresses, telephone numbers, social security numbers, etc.). The point of such a
16 log is to advise Plaintiff's counsel of those particularly sensitive documents that
17 Defendants believe are so private and not relevant to the action as to justify
18 withholding them despite the use of a protective order for the other documents in
19 the personnel file. The parties have met-and-conferred on this process and appear
20 to be in general agreement on the process, subject to seeing the non-relevancy log
21 and the proposed stipulation for protective order for all other personnel file
22 documents. It is hoped that following this process will obviate the need for court
23 intervention in motions to compel. The simple problem is that defense counsel's
24 schedule has been so heavily impacted over the last several weeks that the time-
25 consuming work of preparing the necessary stipulation/protective order and
26 screening of the personnel file for the non-relevancy log has not yet been
27 completed. Defense counsel also faced substantial interruptions in office efficiency
28

1 due to the move of the entire Attorney General's Office during the month of May,
2 which did not go smoothly.

3 (3) Also, because of good faith negotiations that took place between the
4 parties in May and early June, the parties agreed to put off depositions.

5 (4) The parties also need to conduct several depositions, some of which were
6 delayed previously because of scheduling problems and others because of the need
7 for Plaintiff's to have personnel file information. At a minimum, Plaintiffs want to
8 take the depositions of the following officers: Sergio Flores, E.D. Colunga,
9 Sergeant D. Kyle, and Sergeant Nicole Pacheco. However, it is anticipated that
10 Plaintiffs are going to want to take the deposition of other officers involved in the
11 incident and certain command officers. On the defense side, Defendants need to
12 depose (at a minimum) Plaintiff, Chula Vista Fire Department Captain Albright, the
13 two civilian witnesses who were on scene at the accident, the paramedics from
14 American Medical Response, crew members from other San Diego Fire Department
15 engines that responded to the scene, and crew members from Chula Vista Fire
16 Department Engines on scene.

17 (5) Defense counsel anticipates completing his trial by July 14, 2015.
18 Defense counsel is in the process of preparing the proposed stipulation/protective
19 order and non-relevancy log and anticipates being able to complete it within a week
20 of finishing his current trial. Defense counsel also intends to have the personnel file
21 documents ready for quick production to Plaintiffs under the terms of the protective
22 order once it is signed.

23 (6) The parties have designated expert witnesses, but the ability of the experts
24 to prepare their reports is largely reliant on completion of the key witness
25 depositions. It is now apparent that the July 20, 2015, initial expert disclosure
26 deadline is no longer feasible for the parties.

27 (7) In addition, the parties have met-and-conferred on the scope of a
28 permissible psychiatric examination to be conducted on Plaintiff by Defendants'

1 psychiatry expert. The parties appear to have reached a consensus on the scope of
2 that exam. What remains is to find a date when this examination can be scheduled
3 – most likely in August because of the parties’ and the expert’s schedules.

4 WHEREFORE:

5 The parties stipulate to and jointly request the Court to change the
6 aforementioned deadlines to the following:

7 (1) The deadline to complete all discovery, other than expert witness
8 discovery, be continued to September 11, 2015.

9 (2) The deadline for initial expert witness disclosures under Fed. R. Civ. Proc.
10 26(a)(2) be continued to September 25, 2015.

11 (3) The deadline for rebuttal expert witness disclosures be continued to
12 October 23, 2015.

13 (4) The deadline to complete expert discovery be continued to November 24,
14 2015.

15 (5) The deadline for dispositive motions to be filed be continued to December
16 18, 2015.

17 (6) The Mandatory Settlement Conference remain as set on December 4,
18 2015.

19 (7) The deadline for pretrial disclosures under Rule 26(a)(3) remain as set on
20 December 18, 2015.

21 (8) All other deadlines set in paragraphs 11 through 15 of the Court’s original
22 Scheduling Order (Doc. 9) remain as set.

1 Dated: July 6, 2015

Respectfully submitted,

2 CASEY GERRY SCHENK
3 FRANCAVILLA BLATT &
4 PENFIELD, LLP

5 s/Thomas D. Luneau
6 THOMAS D. LUNEAU, ESQ.
7 *Attorneys for Plaintiff Jacob*
8 *Gregoire*

9 Dated: July 6, 2015

Respectfully submitted,

10 GILLEON LAW FIRM

11 S/DANIEL M. GILLEON
12 DANIEL M. GILLEON, ESQ.
13 *Attorneys for Plaintiff Jacob*
14 *Gregoire*

15 Dated: July 6, 2015

Respectfully submitted,

16 LAW OFFICE OF STEVE
17 HOFFMAN

18 s/Stephen E. Hoffman
19 STEPHEN E. HOFFMAN, ESQ.
20 *Attorneys for Plaintiff Jacob*
21 *Gregoire*

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Dated: July 6, 2015

Respectfully submitted,

2 KAMALA D. HARRIS
3 Attorney General of California
4 RICHARD F. WOLFE
5 Supervising Deputy Attorney General
6 DOUGLAS E. BAXTER

7 s/DOUGLAS E. BAXTER
8 DOUGLAS E. BAXTER
9 Deputy Attorney General
10 *Attorneys for Defendants State of*
11 *California (by and through the*
12 *California Highway Patrol) and*
13 *Sergio Flores*

14 I, Douglas E. Baxter, by my signature above, affirm and certify that all other
15 signatories listed above, and on whose behalf this filing is submitted, concur in the
16 filing's content and have authorized the filing.
17
18
19
20
21
22

23 SD2014707454
24 81094288.doc
25
26
27
28